




# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,006	01/05/2006	Pierre Messier	102785-337-NP2	9028
24964	7590	04/03/2007		
GOODWIN PROCTER L.L.P. 599 LEXINGTON AVE. NEW YORK, NY 10022			EXAMINER DIXON, ANNETTE FREDRICKA	
			ART UNIT 3771	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/03/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/528,006	<b>Applicant(s)</b>  MESSIER, PIERRE	
	<b>Examiner</b> Annette F. Dixon	<b>Art Unit</b> 3771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Specifically, Applicant discloses a Canadian patent on page 6, patent '452 on page 7, 11, and 17, and US application 2001/0045398 on page 12, however, none of these patent documents have been listed on an information disclosure statement nor has a copy of the Canadian or '452 patent been provided. Further, Applicant has submitted non-patent literature documents, however, these documents have not been listed on an information disclosure statement.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the facemask and tri-dimensional breathing material must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

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3. The drawings are objected to under 37 CFR 1.83(b) because they are incomplete. 37 CFR 1.83(b) reads as follows:

When the invention consists of an improvement on an old machine the drawing must when possible exhibit, in one or more views, the improved portion itself, disconnected from the old structure, and also in another view, so much only of the old structure as will suffice to show the connection of the invention therewith.

4. Figure 5 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to because the drawings are missing reference characters and instead include a narrative description of the drawings. Applicant is advised that legends may be utilized when necessary for the understanding of the drawing, but should contain as few words as possible. MPEP 608.02 (o-p).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

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and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

6. The disclosure is objected to because of the following informalities: In the Brief description of the drawings, Applicant has not listed the Exhibits. Further, the continuity data in the related applications section does not include PCT/IB03/04543. Appropriate correction is required.

7. The use of the trademark Transweb has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner, which might adversely affect their validity as trademarks.

### ***Claim Rejections - 35 USC § 102***

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8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Rezuke et al. (US 5582865).

As to Claims 1, 2, 7, 8, 9, 10, 15 and 16, Rezuke discloses a face mask (Figure 3) having a periphery designed to abut a persons face and a tri-dimensional breathing material (Figures 1, 2, 2a, and 2b) having an electrostatic charge there across; said tri-dimensional breathing material attached to said periphery of said facemask to form a filtering enclosure. (Column 3, Lines 6-10). Regarding the electrostatic charge, Rezuke discloses the absorbent particles may include ion exchange resins and further discloses the use of impregnated iodine. (Column 3, Lines 48-49, and Examples II, VIII, and IX).

As to Claims 2-6 and 11-14, Rezuke discloses the composite filter element (16) is made of a non-woven polyester batting. (Figures 1, 2, 2a, and 2b; and Column 2, Line 45 thru Column 3, Line 20).

10. Claims 1-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Messier (US 5639452).

As to Claims 1, 2, 7, 8, 9, 10, 15 and 16, Messier discloses a combination wherein an absorbent article made of a textile is utilized in combination with an active agent having an electrostatic charge. Specifically Messier discloses the absorbent

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article or carrier component could be a facemask and the active agent is iodinated resin having a strong base anion exchange. (Figures 7-11; Column 6; Column 35, Lines 20-35).

As to Claims 3-6 and 11-14, Messier discloses the absorbent article or carrier component is made from a non-woven, fiber based, sponge-like material. Specifically, Messier discloses a sponge (39) having a matrix structure (40). (Columns 33 and 34).

11. Claims 1-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Messier (US 6045820).

As to Claims 1, 2, 7, 8, 9, 10, 15 and 16, Messier discloses a combination wherein an absorbent article made of a textile is utilized in combination with an active agent having an electrostatic charge. Specifically Messier discloses the absorbent article or carrier component could be a facemask and the active agent is iodinated resin having a strong base anion exchange. (Figures 7-11; Column 6; Column 35, Lines 27-42).

As to Claims 3-6 and 11-14, Messier discloses the absorbent article or carrier component is made from a non-woven, fiber based, sponge-like material. Specifically, Messier discloses a sponge (39) having a matrix structure (40). (Columns 33 and 34).

12. Claims 1-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Messier (US 5980827).

As to Claims 1, 2, 7, 8, 9, 10, 15 and 16, Messier discloses a combination wherein an absorbent article made of a textile is utilized in combination with an active agent having an electrostatic charge. Specifically Messier discloses the absorbent article or carrier component could be a facemask and the active agent is iodinated resin having a strong base anion exchange. (Figures 7-11; Column 6; Column 35, Line 61 thru Column 36, Line 19).

As to Claims 3-6 and 11-14, Messier discloses the absorbent article or carrier component is made from a non-woven, fiber based, sponge-like material. Specifically, Messier discloses a sponge (39) having a matrix structure (40). (Columns 33 and 34).

### ***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Gottlund (US 6565866), Messier (US 6899868, US 6696055, US 6592861, US 20060144403, US 20030099606, US 20020150623, or US 20010009661), and Wen (US 6681765)

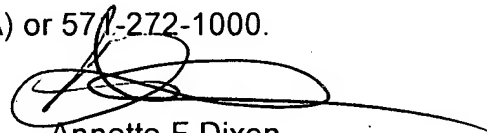
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Annette F. Dixon whose telephone number is (571) 272-3392. The examiner can normally be reached on Monday thru Friday.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Annette F Dixon  
Examiner  
Art Unit 3771



JUSTINE R. YU  
SUPERVISORY PATENT EXAMINER  
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3/30/07